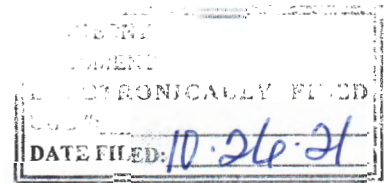


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



----- X	:	
UNITED STATES OF AMERICA	:	[Proposed]
	:	
-v.-	:	SECOND PRELIMINARY ORDER
	:	OF FORFEITURE AS TO
MICHAEL LUCIANO,	:	<u>SPECIFIC PROPERTY</u>
	:	
Defendant.	:	18 Cr. 48 (LAK)
----- X	:	

THE HONORABLE LEWIS A. KAPLAN, United States District Judge:

WHEREAS, on or about January 22, 2018, MICHAEL LUCIANO (the “Defendant”), and another, were charged in a two-count Indictment, 18 Cr. 48 (LAK) (the “Indictment”), with participating in a conspiracy, from in or about January 2015 up to and including in or about July 2017, to distribute and possess with intent to distribute (1) 10 grams and more of butyryl fentanyl, an analogue of fentanyl, in violation of Title 21, United States Code, Sections 841(b)(1)(B) and 846; (2) a quantity of mixtures and substances containing a detectable amount of fentanyl, in violation of Title 21, United States Code, Sections 841(b)(1)(C) and 846; and (3) a quantity of mixtures and substances containing a detectable amount of oxycodone, in violation of Title 21, United States Code, Sections 841(b)(1)(C) and 846 (Count One); and with distributing and possessing with intent to distribute fentanyl and oxycodone by means of the Internet, from in or about February 2016 up to and including in or about July 2017, in violation of Title 21, United States Code, Sections 812, 841(h), and 841(b)(1)(C), and Title 18, United States Code, Section 2 (Count Two);

WHEREAS, the Indictment included a forfeiture allegation as to Counts One and Two of the Indictment, seeking forfeiture to the United States, pursuant to Title 21, United States

Code, Section 853, of any and all property constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of the offenses charged in Counts One and Two of the Indictment and any and all property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of the offenses charged in Counts One and Two of the Indictment, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of the violations alleged in Counts One and Two of the Indictment;

WHEREAS, on or about August 8, 2018, the Defendant pled guilty to Count One of the Indictment, pursuant to a plea agreement with the Government, wherein the Defendant admitted the forfeiture allegation with respect to Count One of the Indictment and agreed to forfeit, pursuant to Title 21, United States Code, Section 853, (i) a sum of money equal to \$15,953.00 in United States currency, representing the amount of proceeds traceable to the commission of the offense alleged in Count One of the Indictment, and (ii) all right, title, and interest of the Defendant in, *inter alia*, the following property the Government seized on or about July 25, 2017: 2.50931367 Bitcoins from “Mike’s BTC Wallet” valued at the time at \$6,222.60 (the “Seized Bitcoins”);

WHEREAS, on or about September 9, 2018, the Court entered a Preliminary Order of Forfeiture as to Specific Property/Money Judgment against the Defendant, which (i) ordered the entry of a forfeiture money judgment in the amount of \$15,953.00 (the “Money Judgment”); and (ii) forfeited all of the Defendant’s right, title and interest in, *inter alia*, the Seized Bitcoins (Dkt. 39);

WHEREAS, on or about August 30, 2021, a Final Order of Forfeiture was entered forfeiting all right, title, and interest in, *inter alia*, the Seized Bitcoins to the Government (the “Final Order of Forfeiture”) (Dkt. 61).

WHEREAS, following the entry of the Final Order of Forfeiture, the Government located an additional asset that the Government asserts constitutes or is derived from proceeds the Defendant obtained, directly or indirectly, as a result of the commission of the offense charged in Count One of the Indictment, specifically, 2.50931367 BCH (*i.e.*, Bitcoin Cash) derived from the 2.50931367 BTC (*i.e.*, Bitcoin) seized by the Government from “Mike’s BTC Wallet” on or about July 25, 2017 (the “Specific Property”);

WHEREAS, the Government seeks, pursuant to Title 21, United States Code, Section 853, the forfeiture of all of the Defendant’s right, title, and interest in the Specific Property (*i.e.*, the 2.50931367 BCH), as property constituting or derived from proceeds the Defendant obtained, directly or indirectly, as a result of the commission of the offense charged in Count One of the Indictment;

WHEREAS, pursuant to 32.2(e)(1)(A) of the Federal Rules of Criminal Procedure, the Court may, on the Government’s motion, enter an order of forfeiture to include property located and identified after an original forfeiture order was entered; and

WHEREAS, pursuant to Title 21, United States Code, Section 853(g), and Rules 32.2(b)(3) and 32.2(b)(6) of the Federal Rules of Criminal Procedure, the Government is now entitled, pending any assertion of third-party claims, to reduce the Specific Property to its possession and to notify any and all persons who reasonably appear to be a potential claimant of their interest herein;

NOW, THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED THAT:

1. As a result of the offense charged in Count One of the Indictment, to which the Defendant was found guilty, all of the Defendant’s right, title, and interest in the Specific

Property is hereby forfeited to the United States for disposition in accordance with the law, subject to the provisions of Title 21, United States Code, Section 853.

2. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Second Preliminary Order of Forfeiture as to Specific Property is final as to the Defendant, MICHAEL LUCIANO, and shall be deemed part of the sentence of the Defendant and shall be included in the judgment of conviction therewith.

3. Upon entry of this Second Preliminary Order of Forfeiture as to Specific Property, the United States (or its designee) is hereby authorized to take possession of the Specific Property and to hold such property in its secure custody and control.

4. Pursuant to Title 21, United States Code, Section 853(n)(1), Rule 32.2(b)(6) and 32.2(e) of the Federal Rules of Criminal Procedure, and Rules G(4)(a)(iv)(C) and G(5)(a)(ii) of the Supplemental Rules for Certain Admiralty and Maritime Claims and Asset Forfeiture Actions, the United States is permitted to publish forfeiture notices on the government internet site, www.forfeiture.gov. This site incorporates the forfeiture notices that have traditionally been published in newspapers. The United States forthwith shall publish the internet ad for at least thirty (30) consecutive days. Any person, other than the Defendant, claiming interest in the Specific Property must file a Petition within sixty (60) days from the first day of publication of the Notice on this official government internet web site, or no later than thirty-five (35) days from the mailing of actual notice, whichever is earlier.

5. The published notice of forfeiture shall state that the petition (i) shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the Specific Property, (ii) shall be signed by the petitioner under penalty of perjury, and (iii) shall set forth the nature and extent of the petitioner's right, title, or interest in the Specific Property, the time and circumstances

of the petitioner's acquisition of the right, title, and interest in the Specific Property, any additional facts supporting the petitioner's claim, and the relief sought, pursuant to Title 21, United States Code, Section 853(n).

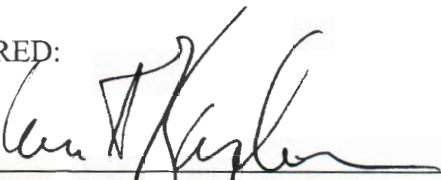
6. Pursuant to 32.2(b)(6)(A) of the Federal Rules of Criminal Procedure, the Government shall send notice to any person who reasonably appears to be a potential claimant with standing to contest the forfeiture in the ancillary proceeding.

7. Upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture with respect to the Specific Property pursuant to Title 21, United States Code, Section 853(n), in which all interests will be addressed. All Specific Property forfeited to the United States under a Final Order of Forfeiture shall be applied towards the satisfaction of the Money Judgment.

8. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate, or dispose of forfeitable property, including depositions, interrogatories, requests for production of documents, and the issuance of subpoenas.

9. The Court shall retain jurisdiction to enforce this Second Preliminary Order of Forfeiture as to Specific Property, and to amend it as necessary, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

SO ORDERED:



THE HONORABLE LEWIS A. KAPLAN
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF NEW YORK

10/25/21
DATE